Before the Federal Communications Commission Washington, D.C. 20554

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In the Matter of))
Federal Preemption of Anne Arundel County Ordinance Regulating Radio Frequency Interference	DA 02-1044
To:))
Chief, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau))))

COMMENT

The Petitioner has demonstrated, once again, that the basis for regulation of the radio spectrum by the Commission is in Federal law and was intended Congress to be exclusively the domain of the Commission, except for specific physical location and the physical characteristics of equipment, antennas, support structures and the like.

The very nature of radio frequency interference (RFI) is often very complicated and convoluted from interaction with other electrical and electronic systems and equipment. Therefore, its analysis, location and remediation require extensive background in operation of special receiving equipment, and in identification of the characteristics of the interference and its sources. And, just as importantly, special knowledge as to how to modify either the source or the affected

equipment to mitigate the problem. Not something that a local government body is routinely equipped to deal with nor to act in a truly objective manner, especially since the ordinance in question was promulgated to defend the public safety radio systems of the local government as not contributory or blameworthy in any way for any interference problem created by operation alongside other commercial radio services in the locality.

As cited by the Petitioner, in the Communications Act of 1982 Congress clearly removed any doubt as to the jurisdiction of the Commission over matters of RFI. However, as shown by the examples cited by the Petitioner, local communities continue unabated in attempting to curtail or prohibit operation of radio frequency transmitting equipment in the interest of eliminating or preventing RFI.

For example, the Laurel Oak Park Homeowners Association of Bradenton, Florida in its Declaration of Covenants, Conditions and Restrictions at Article 10.08, Antennas and Masts, prohibits installation or operation of any device which creates interference:

"No television, radio, or other electronic or communications antenna, mast, dish, disk or other similar device for sending or receiving television, radio or other communication signals shall be permitted upon any Lot or improvement thereto, except in conformance with uniform rules and standards established by the ARC. No such device is permitted under any circumstances if it sends, contributes to or creates interference with any radio, television or other communications reception or interferes with the operation of other visual or sound equipment located within any part of the Subdivision."

The Commission should, in addition to issuance of a decision declaring the Anne Arundel County ordinance null and void, consider initiation of a rulemaking proceeding for the purpose of developing a regulation or section of regulations to clearly define and delineate its authority over RFI.

Development of a regulation clarifying its RFI authority and jurisdiction would reduce the additional expense and burden on the Commission from future Declaratory Ruling proceedings on this matter.

Respectfully Submitted,

(electronically)

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W. Lee McVey, P.E.

PG-12-19879 W6EM WPUK959 1301 86th Court, NW Bradenton, FL. 34209-9309 May 20, 2002